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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,070	04/24/2001	Sergey N. Razumov	59036-017	2177
7590	05/05/2004		EXAMINER	
McDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			FADOK, MARK A	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.	RAZUMOV, SERGEY N.
Examiner Mark Fadok	Art Unit 3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_\_.  
2a) This action is **FINAL**.                            2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_ is/are allowed.  
6) Claim(s) 1-24 is/are rejected.  
7) Claim(s) \_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on 24 April 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.  
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## DETAILED ACTION

### *Drawings*

The drawings filed on 4/24/2001 are acceptable subject to correction of the informalities indicated on the attached "Notice of Draftsperson's Patent Drawing Review," PTO-948. In order to avoid abandonment of this application, correction is required in reply to the Office action. The correction will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In this case the phase "sufficient time period" is indefinite since one of ordinary skill in the art would not be able to ascertain what time period was sufficient.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-3,13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et al (US 6,587,835) in view of Guheen et al (US 6,519,571).**

**In regards to claim 1,** Treyz discloses a retail system comprising:  
an advance ordering system for enabling a customer to order a purchase in advance (FIG 14),  
at least one storage facility for storing goods available for ordering (FIG 14, order fulfillment facility), and  
multiple purchase obtaining facilities remote with respect to the storage facility, for enabling the customer to obtain the ordered purchase delivered from the storage facility after receiving an order for the purchase from the customer. Treyz teaches an advance ordering system and picking up of ordered product at a fulfillment facility (purchase obtaining facility), but does not specifically mention that the purchase obtaining facilities are remote from the storage facility. Guheen teaches a pick up facility (quick-stop mass retail system) that delivers articles ordered from a remote location to a pickup station automatically (col 193, line 60- col 195, line 23). It would have been obvious to a person having ordinary skill in the art to include in Treyz the order pickup facility as taught by Guheen, because this would permit the user to pick up at a location

closest to the user and save the user time. This convenience would server to garner more business and thus increase sales.

Furthermore, the combination of Treyz and Guheen discloses the claimed invention except for the storage facility being remote from the pickup station. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place the storage facilities at a remote location from the pickup stations, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

the purchase obtaining facilities include at least one drive-through purchase obtaining facility for enabling the customer in a vehicle to pick up the ordered purchase delivered to the vehicle (col 10, lines 34-42 and col 65, lines - 45-60).

**In regards to claim 2**, Treyz teaches wherein the drive-through purchase obtaining facility where the ordered purchase is picked up is remote with respect to a location for placing the order (FIG 14).

**In regards to claim 3**, Treyz teaches wherein the drive-through purchase obtaining facility comprises multiple pick-up stations, each of the pick-up stations being arranged for enabling the customer in the vehicle to pick up the ordered purchase delivered to the vehicle. The combination of Treyz and Guheen teaches a drive though pick up area, but does not specifically mention that the pick up area comprises multiple pickup stations. It would have been

obvious to one of ordinary skill in the art at the time of the invention was made to include multiple pickup stations, since it has been held that mere duplication of the essential working parts of a system involves only routine skill in the art. St, Regis Paper Co. v. Bemis Co., 193 USPQ 8.

**In regards to claim 13**, Treyz discloses a method of selling goods, comprising the steps of:

storing the goods available for sale in a storage facility,  
enabling a customer to order a purchase, and  
enabling the customer in a vehicle to obtain the purchase in a drive-through purchase obtaining facility remote with respect to the storage facility (see response to claim 1),  
after a time period sufficient to deliver the purchase from the storage facility to the drive-through purchase obtaining facility, the drive-through purchase obtaining facility allows the ordered purchase to be delivered to the vehicle (col 195, lines 7-16).

**In regards to claim 21**, Treyz teaches the step of enabling the customer to automatically check out the ordered purchase at said one of the multiple pick-up stations (see response to claim 12).

**Claims 4-7,9,10,12,14-20 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et al (US 6,587,835) in view of Guheen et al (US 6,519,571) and further in view of Tsujita (US 6,048,272).**

**In regards to claim 4,** Treyz teaches wherein the drive-through purchase obtaining facility further comprises a control station responsive to identification (ID) data identifying the customer for automatically assigning a pick-up station of the multiple pick-up stations to the customer. Treyz teaches identifying and messaging a user in the vicinity of a merchants outlet (col 23, lines 25-35) and the combination of Treyz and Guheen teach a pickup station, however, neither specifically mentions that a particular pickup station (lane) is automatically assigned. Tsujita teaches automatically assigning an available lane to identified users waiting for assignment of a lane (FIG 22). It would have been obvious to a person having ordinary skill in the art to include in the combination of Treyz/Guheen the lane assignment method as taught by Tsujita, because this would prevent confusion at the pick up stations and improve user efficiency by allocating available lanes in a systematic manner and prevent overly aggressive users from forcing their way in front of other users, thus creating a more orderly environment.

**In regards to claim 5,** Treyz teaches wherein the ID data provides information on the purchase ordered by the customer (Guheen, col 194, lines 1-15).

**In regards to claim 6**, Treyz teaches wherein the drive-through purchase obtaining facility further comprises a service facility for handling purchases delivered from the storage facility (Guheen, col 193, line 60- col 195, line 23, automated store).

**In regards to claim 7**, Treyz teaches wherein the control station is responsive to the ID data of the customer for providing the service facility with a request to deliver the ordered purchase to the pick-up station assigned to the customer (Guheen, col 194, lines 1-15).

**In regards to claim 9**, Treyz teaches wherein the drive-through purchase obtaining facility further comprises at least one check-out station for enabling the customer to check out the ordered purchase without leaving the vehicle (col 194, lines 1-15 and col and claim 1).

**In regards to claim 10**, Treyz teaches wherein the pick-up station is released from being assigned to the customer after the ordered purchase is checked out (Tsujita, FIG 27, game over reporting).

**In regards to claim 12**, Treyz teaches wherein the pick-up station includes a check-out arrangement for enabling the customer to automatically check out the ordered purchase (col 194, lines 30-67, automated store pickup area).

**In regards to claim 14,** Treyz teaches a step of automatically assigning to the customer one of multiple pick-up stations within the drive-through purchase obtaining facility (see response to claim 4).

**In regards to claim 15,** Treyz teaches wherein said one of the multiple pick-up stations is assigned to the customer in response to ID data identifying the customer (see response to claim 4).

**In regards to claim 16,** Treyz teaches wherein a request to deliver the ordered purchase to the assigned one of the multiple pick-up stations is generated simultaneously with assigning said one of the multiple pick-up stations (Guheen, col 195, lines 12-15 and claim 4).

**In regards to claim 17,** Treyz teaches wherein said one of the multiple pick-up stations is assigned to the customer in response to ID data identifying the ordered purchase( see response to claim 4).

**In regards to claim 18,** Treyz teaches wherein a request to deliver the ordered purchase to the assigned one of the multiple pick-up stations is generated simultaneously with assigning said one of the multiple pick-up stations (Guheen, col 195, lines 12-15 and claim 4).

**In regards to claim 19**, Treyz teaches the step of enabling the customer to check out the ordered purchase without leaving the vehicle (see response to claim 9).

**In regards to claim 20**, Treyz teaches the step of releasing the pick-up station from being assigned to the customer after the ordered purchase is checked out (see response to claim 10).

**In regards to claim 22**, Treyz discloses a drive-through retail facility for enabling a customer in a vehicle to make a purchase without leaving the vehicle, the retail facility comprising

multiple purchase pick-up stations, and  
an assignment arrangement for automatically assigning one of the multiple pick-up stations to the customer in response to information provided by the customer (see response to claim 4).

**In regards to claim 23**, Treyz teaches wherein the pick-up stations enable the customer to obtain the purchase ordered in advance from a remote location (see response to claim 1).

**In regards to claim 24**, Treyz teaches wherein said one of the multiple pick-up stations is automatically assigned to the customer in response to ID data identifying the ordered purchase (see response to claim 4).

**Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et al (US 6,587,835) in view of Guheen et al (US 6,519,571) in view of Tsujita (US 6,048,272) and further in view of Official Notice.**

In regards to claim 8, Treyz teaches wherein the control station enables the customer to enter the drive-through purchase obtaining facility only after the customer is identified. The combination of Treyz/Guheen/Tsujita teach identifying a user in the area and providing a pickup spot for purchased items (see above). Treyz/Guheen/Tsujita, however, does not specifically mentions that there is a gate to prevent the user from entering until identified. Providing gates and only permitting access to authorized persons is old and well known in the art. It would have been obvious to a person having ordinary skill in the art to include in Treyz/Guheen/Tsujita the gate system of the instant application, because this would prevent unauthorized persons from entering the facility and picking up items that do not belong to them, thus preventing theft and loss of revenue.

**Claims 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Treyz et al (US 6,587,835) in view of Guheen et al (US 6,519,571) in view of Tsujita (US 6,048,272) and further in view of Ramachandran (US 6,386,323).**

**In regards to claim 11**, Treyz teaches wherein the check-out station enables the customer to exit the drive-through purchase obtaining facility after the ordered purchase is checked out. The combination of Treyz/Guheen/Tsujita teaches using a drive-through for pickup of products (see above), but does not specifically mention that the system enables an exit after pickup from the station. Ramachandran teaches enabling exit after picking up of product from a pickup station (FIG 28). It would have been obvious to a person of ordinary skill in the art to include in Treyz/Guheen/Tsujita the exit means as taught by Ramachandran, because this would permit others to use the same facility and also allow users to leave the premises after pickup, so that they are able to purchase more items at the remote location and thus increase sales for the system.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(703) 605-4252**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Vincent Millin** can be reached on **(703) 308-1065**.

**Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.**

Any response to this action should be mailed to:

***Commissioner for Patents***

**P.O. Box 1450**

**Alexandria, Va. 22313-1450**

or faxed to:

**(703) 872-9306** [Official communications; including

After Final communications labeled

"Box AF"]

**(703) 746-7206** [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.



Mark Fadok

Patent Examiner